THE HON'BLE SRI. JUSTICE GODA RAGHURAM

W.P.No.8033 of 2006

21-04-2006

Between:-

Emadabathuni Venkateswara Rao

Petitioner

And

The Guntur Anna Satram, R. Agraharam, Guntur rep., by its Manager and another.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.8033 of 2006

Oral order:

The writ petition is misconceived. By a public notice dated 12-01-2006, the 1st respondent intimated that Ac.30-00 of land in Vatticherukuru mandal, Anantavarappadu village, Guntur district and Ac.18-33 cents in D.Nos. 217, 220, 241 in Kondamudi village are to be notified for public auction for grant of future leasehold rights, as these lands belong to the 1st respondent – Satram, a charitable endowment. The notice also mentions that persons who are cultivating the lands should, within thirty (30) days handover vacant possession of lands in question after paying all the arrears of rent; in default would be treated as encroachers under Sections 83 to 86 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'); and be evicted from the lands.

According to the petitioner, in respect of an extent of Ac. 05-05 cents of land in survey No.17/1 in Block No.3 of Ananthavarappadu village,

under the Inams Abolition Act, a ryotwari patta was granted to the petitioner, as he was a cultivating tenant. Consequently, the Mandal Revenue Officer, Vatticherukuru mandal issued a patta pass book on 10-06-1983. In the same survey number, in respect of Ac.01-95 cents, the petitioner claims there was a compromise and the management of the 1st respondent charitable institution agreed to sell this extent land to the petitioner. He obtained title and possession thereof after having paid consideration for the same. The petitioner thus claims to be the absolute owner of land in an extent of Ac.05-05 cents.

After the public notice by the 1st respondent, the petitioner apprehending a threat of dispossession, filed an Original Application on 20-02-2006 before the 2nd respondent invoking the powers of the 2nd respondent under Section 87 of the Act. This application of the petitioner is stated to be pending.

The petitioner now apprehends that he would be dispossessed consequent to the public notice dated 12-01-2006 issued by the 1st respondent even before his claim is adjudicated by the 2nd respondent.

The above apprehension of the petitioner is misconceived. The petitioner is at liberty to respond to the impugned notice dated 12-01-2006 issued by the 1st respondent putting forth his claim as to the continuous cultivation or that he is not an encroacher of the lands. Should the 1st respondent reiterate the initial determination that the petitioner should be treated as an encroacher, the 1st respondent has yet to follow the due process of law to evict the petitioner invoking the process under Section 83 of the Act before the appropriate and competent authority. If and when such a proceeding is initiated against the petitioner under Section 83 of the Act, the petitioner is at liberty to putforth all his defences including as to the pendency of the Original Application before the 2nd respondent, which will have to be considered by the competent authority before taking a decision.

On the aforesaid analysis, there is no *in presenti* grievance of the petitioner which requires to be adjudicated under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed, at the stage of admission, granting liberty to the petitioner to agitate and pursue appropriate remedies and strategies in the light of the observations above. No costs.

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GODA RAGHURAM, J

Dated:21-04-2006

Pvks/*